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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,568	06/26/2001	William A. Sobonya	M 6817 MANCO	1960

7590 04/15/2004

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Law Department
2500 Renaissance Blvd., Suite 200
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EXAMINER


RUDDOCK, ULA CORINNA

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 04/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/891,568	Applicant(s) SOBONYA ET AL.	
	Examiner Ula C Ruddock	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/25/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Examiner has carefully considered Applicant's amendment and accompanying remarks filed January 29, 2004. In view of the Applicant's amendments, the Examiner withdraws the previously set forth rejections. Despite these advances, the invention as currently claimed is not found to be patentable for reasons herein below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 7-11, 14, and 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calkins (US 2002/0145089). Calkins discloses a foamed surface covering sheet. The sheet comprises a foamed continuous polyvinyl chloride covering material [0005] surrounding a continuous woven scrim [0013]. With regard to claim 5, because Applicant's claims read on all types of fibers, Calkins meets the claim limitations. With regard to claim 9, it can be seen in Figures 1-3, that at least one surface of the composite is smoothed. With regard to claims 10 and 17, because the sheet can be used to protect and cover the surfaces of cabinets and interiors of drawers [0002], the surface would inherently be horizontal and could be used as an underlayment. With regard to claims 18 and 20-22, because Calkins uses same materials (i.e. woven scrim, PVC foam) are being used in the same type of structure, the sheet would have surfaces with non-slip properties, the sheet would have a cushioning effect, and the sheet would have a top surface

which is impervious to water. With regard to claim 19, the backing surface of Calkins is a release liner as seen in Figure 2, not an adhesive. Calkins discloses the claimed invention except for the teaching that the sheet has a thickness of from about 45 to about 150 mils or 55 to about 100 mils.

With regard to claims, 1, 7, 8, and 14, it should be noted that optimizing the thickness of the composite is a result effective variable, increasing the thickness of the composite directly affects the strength of the entire composite. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the thickness of Calkins' composite sheet be from about 45 to about 150 mils or from about 55 to about 100 mils, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980). In the present invention, one would have optimized the composite thickness motivated by the desire to obtain a composite with increased strength and durability.

4. Claims 4, 12, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calkins (US 2002/0145089), as shown above, in view of Juriga (US 5,536,556). Calkins discloses the claimed invention except for the teaching that the scrim is a non-woven formed from spun strands. Juriga discloses a laminate comprising a foam layer and a scrim (col 4, ln 51-67). The scrim supports the laminate and provides further structural integrity and is preferably a spunbonded (i.e. spun) polyester fibers (col 5, ln 62-64). It would have been obvious to one having ordinary skill in the art to have Juriga's spun non-woven scrim in the composite sheet of Calkins, motivated by the desire to create a composite sheet having structural integrity.

5. Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calkins (US 2002/0145089), as shown above, in view of McDermott, III et al. (US 5,120,587). Calkins discloses the claimed invention except for the teaching that the foamed resin is a foamed polyvinyl chloride plastisol.

It should be noted that, by definition, a plastisol is "a substance consisting of a mixture of a resin and a plasticizer that can be molded, cast, or made into a continuous film by application of heat." (*Merriam Webster's Collegiate Dictionary*, 10th Edition). McDermott, III et al. (US 5,120,587) disclose a support binder in the form of a scrim in which foam material surrounds the openings of the scrim (abstract). The foam material preferably comprises a mixture of polyvinyl chloride (PVC) and a plasticizer (col 6, ln 65-67). As a result, McDermott's foamed mixture of PVC and plasticizer is a foamed polyvinyl chloride plastisol, as disclosed in the present invention. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have used McDermott's foamed polyvinyl chloride plastisol as the foamed resin of Calkins, motivated by the desire to obtain a liner with flexibility and strength.

6. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Calkins (US 2002/0145089), as shown above, in view of Juriga (US 5,536,556) and McDermott, III et al. (US 5,120,587). Calkins discloses the claimed invention except for the teaching that the foamed resin comprises a foamed polyvinyl chloride plastisol and that the scrim comprises woven polyester.

Juriga discloses a laminate comprising a foam layer and a scrim (col 4, ln 51-67). The scrim supports the laminate and provides further structural integrity and is preferably made of polyester fibers (col 5, ln 62-64). McDermott, III et al. (US 5,120,587) disclose a support binder in

the form of a scrim in which foam material surrounds the openings of the scrim (abstract). The foam material preferably comprises a mixture of polyvinyl chloride (PVC) and a plasticizer (col 6, In 65-67), i.e. foamed polyvinyl chloride plastisol.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used Juriga's polyester fibers in the woven scrim of Calkins, motivated by the desire to create a scrim that has high strength and abrasion resistance. It also would have been obvious to one having ordinary skill in the art at the time the invention was made to have used McDermott's foamed polyvinyl chloride plastisol as the foamed resin of Calkins, motivated by the desire to obtain a liner with flexibility and strength.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C Ruddock whose telephone number is 571-272-1481. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

UCR *Uel*

Ula Ruddock
Ula C. Ruddock
Primary Examiner
Tech Center 1700